

Item SP04-17 Response Form

Title: **Canons Applicable to Assigned Judges** (amend Canon 6B of the California Code of Judicial Ethics)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Administrative Office of the Courts
455 Golden Gate Avenue, San Francisco, CA 94102

Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 P.M Friday, October 1, 2004

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

Circulation for comment does not imply endorsement by the California Supreme Court.

Title	Canons Applicable to Assigned Judges (amend Canon 6B of the California Code of Judicial Ethics)
Summary	This proposed amendment provides that assigned judges may not lend their title to promote a business or commercial venture, such as a private dispute resolution firm.
Source	Supreme Court Advisory Committee on the Code of Judicial Ethics
Staff	Mark Jacobson, 415-865-7898
Discussion	<p>Canon 6B currently provides judges in the Assigned Judges Program shall comply with all provisions of the Code of Judicial Ethics except canons 4C(2) (appointment to governmental positions), 4E (fiduciary activities), and 4D(2), which states: “A judge shall not participate in, nor permit the judge’s name to be used in connection with, any business venture or commercial advertising that indicates the judge’s title or affiliation with the judiciary or otherwise lend the power or prestige of his or her office to promote a business or any commercial venture.”</p> <p>Effective January 1, 2003, the Chief Justice of California adopted a policy that judges serving in the Assigned Judges Program would no longer be permitted to engage in private dispute resolution activities for which they are compensated. In view of this policy, the Supreme Court Advisory Committee on the Code of Judicial Ethics has recommended to the Supreme Court that it circulate for public comment a proposal that canon 6B be amended to delete the exception for canon 4D(2). The proposed amendment would have the effect of subjecting assigned judges to canon 4D(2).</p> <p>Because assigned judges are no longer permitted to engage in private dispute resolution for compensation, the committee concluded that no circumstances remain under which an assigned judge should be permitted to lend his or her title to promote a business or commercial venture. The removal of this exception from canon 6B would be consistent with the fact assigned judges are bound by canon 2B(2). Canon 2B(2) provides a judge “shall not lend the prestige of judicial office to advance the pecuniary or personal interest of the judge or others.” Canon 2B(2) is not among the exceptions in current canon 6B. Thus, under canon 2B(2), an assigned judge may not use the prestige of judicial office to promote the personal or financial interest of the judge or others. Likewise, under the proposed amendment, an assigned judge would not be permitted to “lend the power or prestige of his or her office to promote a business or any commercial venture.”</p>

The text of the proposed amendment to the canon is attached.

Attachment

Canon 6B of the California Code of Judicial Ethics would be amended effective January 1, 2005, to read:

B. Retired Judge Serving in the Assigned Judges Program

A retired judge who has filed an application to serve on assignment, meets the eligibility requirements set by the Chief Justice for service, and has received an acknowledgment of participation in the assigned judges program shall comply with all provisions of this Code, except for the following:

- 4C(2) Appointment to governmental positions
- ~~4D(2) Participation in business entities and managing investments~~
- 4(E) Fiduciary activities